

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

FOR APRIL 18, 2007

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **April 18, 2007** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

ROLL CALL

11 present, 1 absent. Commissioner Fay was excused.

PRAYER

Commissioner Lee led the commissioners in prayer.

APPROVAL OF THE MINUTES OF THE APRIL 4, 2007 REGULAR MEETING

Commissioner O'Leary asked for three "friendly amendments" to the Minutes of the April 4, 2007 Regular Meeting. On page 3 Communication No. 17-212 should read 07-212. On page 4 the vote on Communication No. 07-198 should read 8 yeas, 2 nays and 2 absent instead of 8 yeas, 20 nays and 2 absent. On page 5, the motion made for Communication No. 07-219 should read "It was moved by Commissioner Foley, seconded by Commissioner Sheehy and carried with a unanimous verbal vote to refer Communication No. 07-219 to the Finance and Budget Committee".

It was then moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried with a unanimous verbal vote to approve the Minutes of the April 2007 Regular Meeting.

ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES

It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a unanimous verbal vote that in accordance with the provisions of subsection 6 of Rule VI of the Rules and Order of Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency condition exists which requires that the Council rules be suspended in order to allow Resolution No. 07-30 to be added to the agenda of tonight's Regular Meeting of the Council.

**PUBLIC COMMENT ON ANY PUBLIC MATTER
NOT ON THE AGENDA**

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb informed the Council that the position descriptions questionnaires are coming in for the Fox Lawson Wage and Salary Survey. We are right on our timetable with that.

He congratulated the Food Bank on their new building. It is very impressive and will allow them to serve our community well.

He also thanked Commissioners Lee, Sheehy, Shaw and Foley for their help with the K Day. It was a great cleanup effort in the Butte High area.

He said that at the NRD meeting they had a symposium. The projects that we have submitted for the coming year were well received. There were great presentations put on by Jean Pentecost, Cindy McIlveen and Jocelyn Dodge. He is confident that those projects will be moving forward.

We have the Economic Development Summit coming up. It's a great thing for Butte-Silver Bow that we have been selected by Senator Baucus to host this. We did not unfortunately get the \$100,000 that we were trying to get for cultural festivals that are going to happen in our community.

SECTION I

PUBLIC HEARING

FOR THE PURPOSE TO SOLICIT COMMENTS REGARDING AN AMENDMENT TO THE FISCAL YEAR 2006-2007 FIRE DEPARTMENT BUDGET FOR THE APPROPRIATION OF UNANTICIPATED REVENUE FROM THE MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES AND THE BOULEVARD FIRE DEPARTMENT SOCIAL FUND. (Communication No. 07-187 being held in Committee of the Whole)
Proof of publication was noted and placed on file.

Jeff Miller, Director of Fire Services, gave the staff presentation. He said the revenue from the Montana Department of Public Health and Human Services is payment they received through our Smoke Alarm Program annually. They receive funds when the crews go out and install those alarms. The Funds from the Boulevard Fire Department Social Fund was because a grant that they received from the Town Pump Charitable Fund to purchase a thermal imaging camera was not enough funding to purchase the camera so this is their portion that was put into a revenue account.

Chief Executive Babb then opened the public hearing at 7:36 PM and called for any proponents. On the third and final call there being none he then called for any opponents. Again, there was no response so he called the public hearing closed.

SECTION II

PUBLIC HEARING

FOR THE PURPOSE TO SOLICIT COMMENTS REGARDING THE ALLOCATION OF RURAL HERITAGE INITIATIVE GRANT FUNDS FROM THE MONTANA HISTORIC PRESERVATION OFFICE. (Communication No. 07-208 being held in Committee of the Whole) Proof of publication was noted and placed on file.

Dori Skrukrud, Assistant Community Development Director, came to the microphone and told the commissioners that the grant from the Montana Historic Preservation Office in the amount of \$15,000 will be used to develop a heritage trail system in Butte and Anaconda linking the communities historic and cultural and recreational resources and developing promotional materials to orient visitors to our community.

Chief Executive Babb then opened the public hearing at 7:40PM and called for any proponents. On the third and final call, there being none he then called for any opponents. Again, there was no response so he closed the public hearing.

SECTION III

INVITATION FOR BIDS

SEALED BIDS FOR A TENDER APPARATUS FOR THE TERRA VERDE VOLUNTEER FIRE DEPARTMENT. (Communication No. 07-197 being held in Committee of the Whole) Proof of publication was noted and placed on file.

Jeff Miller, Director of Fire Services, opened the following four bids

Semco Tank Equipment, Perryville MO	\$161,765.00
Fouts Brothers Fire Equipment, Smyrna, GA	\$156,600.00
Pierce Manufacturing, Springfield, OR	\$161,040.00
Northern Focus Optical, Roundup, MT	\$212,638.00

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to refer the bids to the Director of Fire Services for review and report back.

SECTION IV

PRESENTATION COMMUNICATION NO. 07-234

Kerry White, Executive Co-Chairman for CBU, requesting time on the 4/18/07 agenda to make a presentation on efforts of CBU in Forest Planning of Beaverhead Deer-Lodge National Forest.

Kerry White, 4000 Blackwood Rd, Bozeman, Montana, a board member for the Citizens for Balance Use gave a power point presentation. A number of the commissioners posed questions.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to place Communication No. 07-234 on file.

Chief Executive Babb Called for a five-minute recess. Council came back to order at 8:40PM with a roll call of 11 present and 1 absent.

SECTION V

PRESENTATION COMMUNICATION NO. 07-248

Karen Byrnes, Director Community Development Department, requesting time on 4/18/07 to present the results of the Y2007 Community Transportation Enhancement Program Project Recommendation.

Dori Skrukrud, Assistant Director Community Development, gave the presentation. She said the single application for CTEP funds was from the Butte-Silver Bow Archives for a renovation project. \$532,260,00 was the estimate for the project. She recommended that Butte-Silver Bow Council consider this as a priority project.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to place Communication No. 07-248 on file.

SECTION VI

PRESENTATION COMMUNICATION NO. 07-252

Fran Doran, Committee Member, requesting time on the 4/18/07 agenda to discuss the reopening of the Stodden Park Pool.

Tom Staples, 951 Caledonia, spoke for the group. They are asking that we do a band-aid fix of the pool and open it up for the 2007 summer. They feel this could

be done for \$10,000.00. The commissioners did ask questions and then Chairman O'Leary called for the next presentation.

SECTION VII

PRESENTATION COMMUNICATION NO. 07-254

John VanDaveer, Public Works Director, requesting time on the 4/18/07 agenda to deliver a presentation regarding the evaluation of costs recommended to temporarily reopen Stodden Park Pool.

John VanDaveer, Public Works Director, showed a power point presentation showing the present condition of the Stodden Park pool. He also called on Bob Rowling, Parks and Recreation Director, to speak on the budget for the annual operations and maintenance of the pool. He also called on Jocelyn Dodge, Chairman of the Parks and Recreation Board, to speak.

It was moved by Commissioner Mulcahy and seconded by Commissioner Coleman to open the Stodden Park Swimming Pool with the existing funds appropriated for this year's budget. Chief Executive Babb noted that the information he has received tells him that \$50,000 is not going to be enough. We can move forward with the \$50,000 and try and open the pool, but if it's not enough, he wants the council to be aware that we will need to come up with some money. Until we get some bids out we will not know if we are going to come in on target or not. **A roll call vote of 6 yeas and 5 nays was taken and the motion passed.** Voting nay were Commissioners Frasz, O'Leary, Sorich, Foley and Lee.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with unanimous verbal vote to place Communication No. 07-252 and 07-254 on file.

SECTION VIII

CONSENT AGENDA

A. FOR APRIL 11, 2007

1. COMMITTEE OF THE WHOLE MEETING REPORT
2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
3. JUDICIARY COMMITTEE MEETING REPORT
4. PUBLIC WORKS COMMITTEE MEETING REPORT
5. PERSONNEL COMMITTEE MEETING REPORT

CONSENT AGENDA

A-1 FOR MARCH 14, 2007

1. COMMITTEE OF THE WHOLE MEETING REPORT

2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
3. JUDICIARY COMMITTEE MEETING REPORT
4. PUBLIC WORKS COMMITTEE MEETING REPORT

B. COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any segregations. Commissioner Coleman segregated Communication No. 07-227. Commissioner O’Leary asked for a “friendly amendment” on Communication No. 07-221. The spelling of the name should be Whelan instead of Whalen **It was then moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried with a unanimous verbal vote to approve the Consent Agenda, Section A and Section A-1, and Communications 1 through 39 exclusive of No. 8.**

Communication No. 07-227

Charlie O’Leary, Chairman Council of Commissioners, requesting concurrence in appointments of Sheila P. Youngblood and Dan Foley to Planning Board.

Commissioner Coleman said he just wanted to say that he knows Dan Foley and Sheila P. Youngblood will be really good on that board and he thanked Chief Executive Babb for the opportunity for allowing him to serve on the board filling in a temporary position. **Commissioner Coleman moved to concur and place on file. The motion was seconded by Commissioner O’Leary and carried with a unanimous verbal vote.**

**SECTION IX ORDINANCES AND RESOLUTIONS –
REFERRED TO JUDICIARY**

1. COUNCIL RESOLUTION NO. 07-10

A RESOLUTION APPROVING THE BUTTE-SILVER BOW DUI TASK FORCE PROGRAM FOR FISCAL YEAR BEGINNING 2007 AND APPROVING THE TRANSFER OF CERTAIN ASSETS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

2. COUNCIL RESOLUTIONS NO. 07-25

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION WITH THE DEPARTMENT OF COMMERCE OF THE STATE OF MONTANA, FOR A MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT UNDER THE TERMS OF THE COMMUNITY DEVELOPMENT ACT OF 1974 (42 USC 5301) AS AMENDED

3. COUNCIL RESOLUTION NO. 07-26

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE AMENDED PLAT OF LOT 5 IN BLOCK 10 OF THE HILLCREST ADDITION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

4. COUNCIL RESOLUTION NO. 07-28

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF HENRY STREET LYING SOUTH OF THE SOUTH LINE OF WEST COPPER STREET AND NORTH OF THE NORTHERN BOUNDARY LINE OF THE LAURA FRACTION LODE, MINERAL SURVEY NO. 2499 BETWEEN BLOCKS 3 AND 4 OF THE VOLUNTEER NO. 2 ADDITION WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN.

5. COUNCIL RESOLUTION NO. 07-29

A RESOLUTION CREATING SPECIAL IMPROVEMENT DISTRICT NO. 1027 FOR THE PURPOSE OF MAINTAINING AND INSTALLING AN ELECTRICAL LIGHTING SYSTEM; DESIGNATING AND DESCRIBING THE BOUNDARIES OF SAID PROPOSED SPECIAL IMPROVEMENT LIGHTING DISTRICT; STATING THE PURPOSE OF AND THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE IN SAID SPECIAL IMPROVEMENT DISTRICT; ESTIMATING THE APPROXIMATE COST OF MAINTAINING AND SUPPLYING ENERGY THEREOF FOR THE FIRST YEAR; FINDING, DETERMINING, AND DECLARING THAT SUCH PROPERTY SHOULD BE ASSESSED FOR COST THEREOF OF MAINTENANCE AND ENERGY AND EXTENDING SUCH ASSESSMENT TO BE IN SEMI-ANNUAL INSTALLMENTS AND PROVIDING FOR THE FUND UPON WHICH SAID SPECIAL IMPROVEMENT FUNDS SHALL BE DRAWN; WITHDRAWING ALL PROPERTY DESCRIBED IN EXHIBIT "A" FROM OTHER SPECIAL IMPROVEMENT LIGHTING ASSESSMENTS AND FINDING THE NECESSARY FACTS HEREIN.

6. COUNCIL RESOLUTION NO. 07-30

A RESOLUTION URGING THE CESSATION OF WAR AND COMBAT OPERATIONS IN IRAQ; FOR THE RETURN OF AMERICAN TROOPS; FOR FULL FUNDING OF VETERANS' PROGRAMS TO MEET THE NEEDS OF

AMERICA'S VETERANS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION X

ORDINANCES – SECOND READING

**1. COUNCIL BILL NO. 07-5
ORDINANCE NO. 07-5**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCES NO. 7 AND 53 AND CHAPTERS 2.48 AND 17.54 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "BOARD OF ADJUSTMENT"; AMENDING SECTIONS 2.48.090 AND 17.54.090, B-SB MC; DELETING REFERENCE TO APPEAL TO THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 76-2-327, MCA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Bill No. 07-5, Ordinance No. 07-5 on second reading and passed having been deemed fully read at length.

SECTION XI

ORDINANCES AND RESOLUTIONS – FINAL READING

**1. COUNCIL BILL NO. 05-11
ORDINANCE NO. 05-11**

AN ORDINANCE CREATING A NEW CHAPTER WITHIN THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) TO BE ENTITLED "SECONDHAND GOODS" TO BE NUMBERED CHAPTER 5.66, B-SB MC; ESTABLISHING REGULATIONS FOR ALL SECONDHAND DEALERS INCLUDING SECONDHAND STORES, PAWNBROKERS, COIN DEALERS, AND DEALERS IN PRECIOUS AND SEMI-PRECIOUS METALS OR STONES; ESTABLISHING REPORT REQUIREMENTS; SETTING LICENSING FEES; ESTABLISHING PENALTIES FOR VIOLATION; REPEALING CHAPTERS 5.36 AND 5.44, B-SB MC AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Bill No. 05-11, Ordinance No. 05-11 on final reading and passed having been deemed fully read at length.

2.

**COUNCIL BILL NO. 07-4
ORDINANCE NO. 07-4**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCES NO. 195, 266, 398 AND 04-5 AND TITLE 15 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "BUILDING AND CONSTRUCTION"; AMENDING CHAPTER 15.04 ENTITLED "BUILDING CODE"; AMENDING CHAPTER 15.07 ENTITLED "INTERNATIONAL EXISTING BUILDING CODE"; AMENDING CHAPTER 15.10 ENTITLED "FIRE CODE"; AMENDING CHAPTER 15.14 ENTITLED "MECHANICAL CODE"; AMENDING CHAPTER 15.15 ENTITLED "INTERNATIONAL FUEL CODE"; AMENDING CHAPTER 15.16 ENTITLED "PLUMBING CODE"; AMENDING SECTION 15.04.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL BUILDING CODE AND APPROPRIATE ARM CHANGES; AMENDING SECTION 15.04.075 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE, AMENDING SECTION 15.07.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL EXISTING BUILDING CODE, AMENDING SECTION 15.10.010 AND ADOPTING THE 2003 EDITION OF THE NFPA 1 UNIFORM FIRE CODE; AMENDING SECTION 15.14.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL MECHANICAL CODE, AMENDING SECTION 15.15.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL FUEL CODE AND AMENDING SECTION 15.16.010 AND ADOPTING THE 2006 EDITION OF THE UNIFORM PLUMBING CODE AND DELETING APPENDIX H AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Bill No. 07-4, Ordinance No. 07-4 on final reading and passed having been deemed fully read at length

3.

COUNCIL RESOLUTION NO. 07-21

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW LAW ENFORCEMENT DEPARTMENT FROM THE MONTANA DEPARTMENT OF TRANSPORTATION TRAFFIC SAFETY BUREAU TO PURCHASE THREE VIDEO VEHICLE CAMERAS AND FIVE PORTABLE BREATH ANALYZERS TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 07-21 on final reading and passed having been deemed fully read at length.

4. COUNCIL RESOLUTION NO. 07-22

A RESOLUTION DIRECTING THE BUTTE-SILVER BOW TREASURER TO MAIL NOTICE OF PENDING TAX DEED ISSUANCE TO ALL PERSONS CONSIDERED INTERESTED PARTIES FOR EACH PROPERTY FOR WHICH THERE HAS BEEN ISSUED A TAX CERTIFICATE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 15-18-212, MCA; FURTHER DIRECTING THE TREASURER TO ISSUE TAX DEED FOR THOSE PARCELS OF PROPERTY WHERE THERE HAS BEEN ISSUED A TAX CERTIFICATE AND THE EXPIRATION DATE OF THE REDEMPTION PERIOD HAS EXPIRED AND THE REQUIRED PAYMENTS HAVE NOT BEEN MADE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 07-22 on final reading and passed having been deemed fully read at length.

**SECTION XII ORDINANCES AND RESOLUTIONS –
SUSPENSION OF THE RULES FOR FINAL PASSAGE**

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent for suspension of the rules for the purpose of passing Council Resolution 07-27 by waiving subsection 7 of the Rule XXXVI of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee.

1. COUNCIL RESOLUTION NO. 07-27

A RESOLUTION ACCEPTING THE DONATION OF LOT 1 IN BLOCK 6 OF THE CENTRAL ADDITION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 07-27 on final passage and passed having been deemed fully read at length.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 11:05 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER